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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,282	03/25/2004	Reinhold Burr	228181/BEHR	6041

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EXAMINER
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KOSANOVIC, HELENA

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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11/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/809,282

Applicant(s)

BURR ET AL.

Examiner

Helena Kosanovic

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 17-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 17-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                             |                                                                                         |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

Applicant's amendments filed 9/20/2007 are acknowledged.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 17-18, 22-26 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Guillemain 4,947,735.

Guillemain teaches the invention as claimed: a device (fig. 8) for ventilating passenger cabin in the car having at least one control valve 46a, 46b with at least one edge 88 overflowed with air that can be moved from first to second position (opened/closed) wherein overflow edges 88, have a changing cross sectional profile (90, 92a, 92b, fig. 8) for diverting at least a portion of the airflow into a plurality of airstreams dividing from the main flow direction, and having a plurality of flow bodies (col. 3, ll. 10-15, fig. 8) in the overflowed edge area, wherein the plurality of flow body comprising a turbulence generators ( 90, 92a, 92b) having a side facing airflow and being tapered on the side facing air flow (fig, 8, shows element 82a and 92b being tapered).

Regarding claim 17, the flow bodies are selected from a group of structures comprising turbulence generators, pinnacles, calottes, spherical calottes, nubs, pyramids, indentations (92a, 90, fig. 8), gratings, grating sections, and cylinders.

Regarding claim 18, the plurality of flow bodies is arranged at a predetermined angle (fig. 8) in relation to the overflowing edge area.

Regarding claim 22, the overflowed edge area includes a sealing edge (opposite the edge 88, fig. 8) that is capable of substantially closing an airflow path (fig. 7).

Regarding claims 23 and 30, the control valve includes reinforcing raised ligaments 50a, 50b, fig. 8).

Regarding claims 24 and 31, the invention further comprising a second control valve (figs 4-5, first control valve 46a and second valve 46b) and curvilinear baffle arranged adjacent to the first control valve and curvilinear baffle on the same rotational axis (48, fig. 4).

Regarding claim 25, a control mechanism (fig. 4 and 8) for use in a motor vehicle ventilation system, comprising: a substantially flat and curvilinear baffle 46a (figs, 4 and 8) mounted to an axis (48) and rotatable within an air flow path between an open position and closed position, wherein the baffle when rotated into the open position allows air flow within the path and when rotated into the closed position prevents air flow within the path; and a plurality of turbulence generators (90, 92a, 92b, fig. 8) attached at a predetermined angle to at least one edge of the baffle the turbine generators having a side facing airflow and being tapered on the side facing the airflow (fig. 8, shows element 82a and 92b being tapered), wherein turbulence generators define flow

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pathways through which a portion of the air flowing over the edge of the baffle in a main flow direction may be diverted (col. 3, ll. 10-15).

Regarding claim 26, a control mechanism for use in a motor vehicle ventilation system (fig. 4, 7, 8), comprising: a substantially flat (plain 46a, 46b) and curvilinear (elements 50, 90, 92a, 92b) baffle mounted to an axis (84, fig. 8) and rotatable within an air flow path, which baffle includes a first sealing edge one side of the baffle opposite the second side 88) and a second sealing edge (88) that cooperate to substantially seal a flow path when the baffle is rotated into a closed position (fig. 7); and a plurality of turbulence generators (90, 92a, 92b) attached at a predetermined angle to the first sealing edge of the baffle, wherein the turbulence generators are tapered (fig. 8, shows element 82a and 92b being tapered).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-20 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guillemain 4,947,735.

Guillemain teaches the invention as discussed above, but is not specific about an angle.

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Regarding the angle limitation the courts have held that where general condition of claim is disposed in the prior art (fig.1), it is not inventive to discover the optimum or workable range (MPEP 2144.05 IIa). In this case unnumbered rising element is angled to some degree compared to plane 46a,b on figure 8, according to the court it is not inventive to discover the optimum or workable range of angles.

3. Claims 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guillemín 4,947,735 in view of Kaszycki 2005/0170769.

Guillemín teaches the invention as discussed above but is not specific about overflowed edge made of injection molded.

Kaszycki expressly teaches injection molded piece forming an edge that is attached to the control door in the car (paragraph 0008).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an injected molded piece for the overflowed edge, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. (See *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied Industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Also MPEP 2144.07).

### ***Response to Arguments***

Applicant's arguments with respect to claim 1, 17-31 have been considered but are moot in view of the new ground(s) of rejection.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helena Kosanovic whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Helena Kosanovic  
Examiner  
Art Unit 3749  
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STEVE MCALLISTER  
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